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SUPREME COURT OF THE UNITED STATES.

No. 25.

THE UNITED STATES, APPELLANT,

vs.

MOSES E. LEVY.

APPEAL FROM THE SUPERIOR COURT OF EAST FLORIDA.

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Before the Honorable Richard Raymond Reid, Judge of the Superior Court for the District of East Florida, and specially authorized by law to receive and adjudicate claims and titles to land in the District of East Florida.

SUPERIOR COURT, *East Florida.*

Be it remembered that on the eighteenth day of May, in the year of our Lord one thousand eight hundred and twenty-nine, Moses E, Levy, by John Drysdale, Esquire, his attorney, brought and filed in the clerk's office of the said court, his petition or claim to certain land therein mentioned; which said petition or claim is in the words and figures following, to wit:

Petition to the Court.

To the Honorable Joseph L. Smith. Judge of the Superior Court for the District of East Florida.

The petition of Moses E. Levy, a citizen of the United States, and an inhabitant of the Territory of Florida, respectfully showeth:

That he claims title to a certain tract or parcel or land, containing fourteen thousand five hundred acres, situate, lying, and being in that part of the Territory of Florida, known as East Florida, and within the jurisdiction of this honorable court, which said fourteen thousand five hundred acres of land, are part and parcel of a larger body, consisting of thirty thousand acres of land, originally conceded or granted in full and absolute property, by a concession or grant made on or about the twenty-fourth day of March, one thousand eight hundred and seventeen, to one Fernando de la Maza Arredondo, senior, a subject to His Majesty the King of Spain, by Don Jose Coppinger, then the governor of the province of East Florida aforesaid, and while it was a dependancy of the crown of Spain, under and in virtue of the authority and power vested in him as governor as aforesaid for that purpose, as will more fully and at large appear by a reference to the said concession; the memorial of the said Arredondo praying the grant of said lands, a copy whereof marked Exhibit A, is hereto annexed; and your petitioner prays that they may be taken as a part of this his petition. And that the said fourteen thousand five hundred acres of land, part and parcel of the said thirty thousand acres were afterwards located and surveyed on the west side of the St. Johns river, the lines thereof commencing on the north at the old path of the Chocochate Indians.

And your petitioner further shows, that the fourteen thousand five hundred acres of land were afterwards, to wit, on or about the third

day of August, one thousand eight hundred and twenty, sold, transferred, and conveyed in absolute property to a certain mercantile house in Havana, in the Island of Cuba, known by the name and style of Hernandez and Chaviteau, by the said Arredondo, as will fully appear by a reference to his conveyance thereof to them, a copy whereof is hereto annexed, marked Exhibit D, and were by the said Hernandez and Chaviteau sold and transferred in fee simple absolute to one Abram M. Cohen, as will appear by a reference to the conveyance thereof, a copy whereof is hereto annexed marked Exhibit E; and by the said Abram M. Cohen the said lands were transferred and conveyed in fee simple absolute to your petitioner, as will more fully and at large appear by a reference to the conveyance thereof to him hereto annexed, marked Exhibit F; which said conveyances your petitioner prays may be taken as a part of this his petition.

And your petitioner further shows, that there is at the place designated in the said concession for the location of the said 14,500 acres of land, a considerable portion of the land covered by water, and consisting of marshes, which, if included in the survey of the said land, would be a complete loss of so much land to your petitioner, as is covered with water, or as consists of marshes. And your petitioner avers, that by the concession in this case, he in entitled to 14,500 acres of land, exclusive of land covered by water and of marshes; and that by the custom, practice, and usage of the Spanish Government in East Florida, that where it happened that at the place designated for the location of the land granted, there was found to be a part of that which would necessarily fall within the survey according to the calls of the grant, covered with water, or consisting of marshes, though included within the boundaries of the survey was excluded from the quantity surveyed for the party, and the whole of land clear of such water and marsh, called for by the grant, was surveyed and secured to the party entitled to the benefit thereof. Your petitioner, therefore, prays that such directions for the survey of the said 14,500 acres of land may be given by your Honor as he is justly entitled to, by the aforesaid concession and the said usage, practice, and custom of the Spanish Government in East Florida.

And your petitioner further shows, that since the purchase of said lands by him, he has at *at* very great expense and trouble made a settlement on the said lands, at a place thereon called Hope Hill; and that he has erected houses and buildings of various descriptions on the said land, and has cultivated a considerable portion thereof, and made other beneficial improvements thereon.

And your petitioner further shows, that the claim of your petitioner to the said fourteen thousand five hundred acres of land has been submitted to the examination of the Board of Commissioners appointed under and in virtue of an act of the Congress of the United States, entitled "An act amending and supplementary to the act for ascertaining claims and titles to lands in the Territory of Florida, and to provide for the survey and disposal of the public lands in Florida," passed the 3d day of March, 1823, and has by the said commissioners been recommended for confirmation.

And your petitioner further shows unto your Honor, that the said lands so claimed by him, and situated within the Territory of Florida as aforesaid, are embraced by the treaty between Spain and the United States, of the twenty-second of February, one thousand eight hundred and nineteen, and that the grant thereof is not annulled by the said treaty, or by the ratification by the King of Spain; that his claim thereto has not been decided, or finally settled under the provisions of the act of Congress of the United States, entitled "An act supplementary to the several acts providing for the settlement and confirmation of private land claims in Florida," passed 23d May, 1828, or of any of the acts to which the said last recited act is supplementary; that the claim of your petitioner contains a greater quantity of land than the commissioners appointed under the said act were authorized to decide; and above the amount confirmed by the aforerecited act of Congress, passed 23d May, 1828, and that the said claim of your petitioner for the said lands has not been reported by the commissioners appointed under any of the aforesaid acts, or any other, or by the register and receiver acting as such under the several acts of Congress in that case made and provided, as antedated or forged; but on the conrary thereof, was recommended for confirmation as aforesaid.

Wherefore, your petitioner prays that the validity of his title to the aforesaid tract or parcel of land so claimed by him as aforesaid, may be inquired into and decided by this honorable court; and that due process and citation may issue and be served according to the acts of the Congress of the United States in such case made and provided. And your petitioner will ever pray, &c.

JOHN DRYSDALE,
Attorney for Petitioner.

A copy of the foregoing petition with a citation thereto annexed, was delivered to the marshal of this district, to serve on the attorney of the United States for the same district; and the return of the said marshal thereon, is in the words and figures following, to wit:

"Served copy on Thomas Douglas, Esq., United States attorney, 22 May, 1829."

"WATERS SMITH, *Marshal.*"

And afterwards, to wit, on the seventh day of July, in the year of our Lord one thousand eight hundred and twenty-nine, Thomas Douglas, Esquire, United States attorney for the district of East Florida, brought and filed in the clerk's office aforesaid, his answer to the said petition; which said answer is in the words and figures following, to wit:

Answer of United States Attorney.

THE UNITED STATES OF AMERICA *ads.* MOSES E. LEVY. } Superior Court, November Term, in the year of our Lord 1829.

The answer of Thomas Douglas, United States attorney for the district of East Florida to the petition or bill of complaint of Moses E. Levy, the said attorney in the name and for and on behalf of the same United States, saving and reserving to them now and at all times hereafter, all and all manner of benefit of exception to the manifold errors, defects, and irregularities in the said petition or bill of complaint contained, for answer thereunto, or unto so much thereof, as it is material and necessary for them to answer unto, answereth and saith: That, whether any such grant for thirty thousand acres of land was made to the said Fernando de la Maza Arredondo by Don Jose Coppinger, governor of the province of East Florida, on or about the twenty-fourth day of March, one thousand eight hundred and seventeen, as he the said Moses E. Levy has in his said petition or bill of complaint alleged, or whether the said fourteen thousand five hundred acres of land were part and parcel of the said thirty thousand acres were afterwards located and surveyed on the west side of the St. John's river, as in the said petition or bill of complaint is alleged and described, or whether any such royal title or grant to the said lands was made to the said Arredondo on or about the nineteenth day of August, one thousand eight hundred and nineteen, or whether the said fourteen thousand five hundred acres of the said land were afterwards, to wit, on or about the third day of August, one thousand eight hundred and twenty, transferred and conveyed in absolute property to a certain mercantile house in Havana, in the Island of Cuba, known by the name and style of Hernandez and Chaviteau, by the said Arredondo, or whether the same was by the said Hernandez and Chaviteau sold and transferred in fee simple absolute to one Abram M. Cohen, and by the said Abram M. Cohen to the said petitioner, Moses E. Levy, or whether the said Moses E. Levy has ever at any, at great expense and trouble, made a settlement on the said lands, at a place then called Hope Hill, or whether he has erected houses and buildings of various descriptions on the said lands, and cultivated a considerable portion thereof, and made other beneficial improvements thereon, as he the said Moses E. Levy has in his petition or bill of complaint aforesaid alleged and set forth, this respondent has no knowledge except what he has derived from a perusal of the said petition or bill of complaint, and of the exhibits thereto annexed, and cannot, therefore, either admit or deny the same, but respectfully prays this honorable court, to require of the said Moses E. Levy due proof of the making and execution of the said grant and royal title, and of the said several conveyances, and of the making of the said location and survey, and the said improvements, (if, indeed, any such grant, royal title, location, survey, conveyances, or improvements were ever made in manner and form as the said Moses E. Levy has

in his said petition or bill of complaint alleged,) and of all the matters and things in the said petition or bill of complaint aforesaid alleged and set forth, as they are therein stated according to law, and the usages of courts of equity.

And this respondent avers, that if any such grant of the said thirty thousand acres of land was ever made by the said Don Jose Coppinger, Governor of East Florida as aforesaid, to the said Fernando de la Maza Arredondo, the said Don Jose Coppinger, governor as aforesaid, was induced to make the same by certain representations of the said Arredondo, made and set forth in the memorial in the said petition or bill of complaint mentioned, in which he the said Arredondo alleged that he had rendered great and important services to, and had incurred many and considerable expenditures for His Majesty the King of Spain and the country; that if the said Don Jose Coppinger made said supposed grant, he made it in consequence of said representations so made in the said memorial as aforesaid, but whether the said Fernando de la Maza Arredondo ever rendered any such services or incurred any such considerable expenditures, this respondent does not know, and cannot, therefore, either possitively deny or affirm that he did, but prays this honorable court, that the said Moses E. Levy may be required on the hearing of this cause to show and prove the specific services rendered, and the specific expenditures made by the said Arredondo for his said Majesty the King of Spain and the country aforesaid, on account of which he the said Arredondo obtained the said supposed grant of thirty thousand acres of said land, (if he obtained at all,) as they are in the said memorial stated and set forth, according to law and the usages of courts of equity.

And this respondent further says, that if any such grant of the said thirty thousand acres of the said land was made by the said Don Jose Coppinger, governor as aforesaid to the said Fernando de la Maza Arredondo in manner and form as aforesaid, it was made contrary to, and in violation of the laws, ordinances, and royal regulations of the Government of Spain, which were in force in the province of East Florida at the time when the said supposed grant is alleged to have been made, providing for the granting of lands in its provinces, of which said provinces the said East Florida was then one; and without any power or authority on the part of the said Don Jose Coppinger, governor as aforesaid to make it, and that it was never approved by the King of Spain, and that it was, and is wholly null and void, as will more fully appear by reference to the aforesaid laws, ordinances, and royal regulations, which this respondent prays leave to introduce and read on the hearing of this cause; and this respondent further avers, that no power had been conferred by the Spanish Government aforesaid, upon the said Don Jose Coppinger at the time when the said supposed grant is alleged to have been made as aforesaid, to make grants of land in East Florida of the magnitude and description of the one set forth and described as having been made to the said Arredondo, and a part of which is now claimed by the said Moses E. Levy in this suit; and this respondent further prays this honorable court, that the said Moses E. Levy may be required to show and

prove the specific powers which had been conferred by the said Spanish Government upon the said Don Jose Coppinger at the time when the said supposed grant is alleged to have been made as aforesaid (if any such had been conferred) to make grants of land in East Florida, and particularly, that he may be required to show and prove the specific powers under which he, the said Don Jose Coppinger claimed to act in making the said supposed grant, (if any such was ever made by him;) and this respondent suggests, that if the said Fernando de la Maza Arredondo ever had any such grant or survey for the thirty thousand acres of land aforesaid, as is above supposed, it was made since the twenty-fourth day of January, in the year of our Lord one thousand eight hundred and eighteen, and that it was and is rendered wholly null and void by the provisions of the latter clause of the eight article of the treaty which was made and concluded on the twenty-second day of February, in the year of our Lord one thousand eight hundred and nineteen, by and between the same United States and His Catholic Majesty the King of Spain aforesaid.

And further, that at the time when the supposed grant is alleged to have been made as aforesaid, it was, and for a long space of time had been, the fixed and settled policy of the Government of Spain, to parcel out its colonial domain in reference to the sole objects of increasing the population of its provinces, and of benefitting its indigent subjects, and that according to that policy, grants for the purpose of speculation were never approved or tolerated by the said Government of Spain, and that the said grant was obtained by the said Fernando de la Maza Arredondo (if it was obtained at all) for the purpose of speculation only, as appears by the showing of the said Moses E. Levy himself.

And this respondent further saith, that whether there is at the place designated in said concession for the location of the said 14,500 acres of land, a considerable part, or any part of the land coverd by water, and consisting of marshes, this respondent does not know, and cannot, therefore, either admit or deny the same, but leaves the petitioner to such proof as he may be able to make thereof, at the hearing of this cause.

And this respondent denies, that by the concession in this case, the said petitioner is entitled to 14,500 acres of land, exclusive of land covered by water and marshes, or that by the custom, usage, or practice of the Spanish Government in East Florida, when it so happened that at a place designated for the location of the land granted, there was found to be a part of it which would necessarily fall within the survey according to the calls of the grant, covered with water, or consisting of marsh, that the land so covered with water, or consisting of marsh, though included within the boundaries of the survey, were excluded from the quantity surveyed for the party, or that he was entitled to have it so excluded, or that any such usage or custom ever existed; and this respondent expressly denies, that in such a case the whole clear of such water or marsh called for by the grant

was surveyed or secured to the grantee, or those claiming by, through, or under him, &c.

And this respondent insists, that if any such usage or custom ever existed in East Florida, (which is not admitted,) it was entirely waived by the said Fernando de la Maza Arredondo, under whom the petitioner claims by his having (as appears by the showing of the petitioner himself) caused or procured the said fourteen thousand five hundred acres of land to be surveyed, and the lines and boundaries thereof to be designated and marked, and by his acceptance of the said survey, and by his having also procured and accepted a royal title for the same 14,500 acres of land, made according to said survey, and describing the said lines, marks, and boundaries, which said survey was not made in accordance with, but without any attention to any such usage or custom, and that the petitioner is now estopped by said entire waiver from setting up any such usage or custom.

And this respondent insists, that this honorable court has no power or authority to direct a survey of the said 14,500 acres of land, in accordance with any such supposed usage or custom, if it could be shown that any such usage or custom ever existed.

And this respondent admits, that the said Moses E. Levy presented his claim for the said fourteen thousand five hundred acres of land to the Board of Commissioners in his said petition or bill of complaint mentioned, as therein stated, and that the said Board of Commissioners reported, recommending the confirmation thereof.

And now, having fully answered all the matters and things in the said petition or bill of complaint mentioned, the said attorney prays that the said United States may be hereof discharged, and that their reasonable costs and charges by them in and about the defence of this suit, paid, laid out, and expended, may be adjudged and decreed to them, &c.

THOMAS DOUGLAS,
United States Attorney, &c.

And afterwards, to wit, on the twenty-ninth day of July, in the year of our Lord one thousand eight hundred and thirty-three, the said claimant, by his solicitor, brought and filed in the clerk's office aforesaid, his replication; which is in the words and figures following, to wit:

SUPERIOR COURT *for the Eastern District of Florida.*

July Term, 1833.

M. E. LEVY, Plaintiff.
vs.
THE UNITED STATES OF AMERICA, Defendant. } Land Claim.

Replication.

Replication of the said plaintiff to the answer of the United States, defendant.

This replicant saving and reserving to himself, all and all manner of advantage of exception to the manifold insufficiencies of the said

answer, for replication thereto saith: That he will aver and prove his said bill to be certain, true, and sufficient in the law to be answered unto, and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by this replicant; without that, that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto, confessed, or avoided, traversed or denied, is true; all which matters and things this replicant is and will be ready to aver and prove as this honorable court shall direct; and humbly prays as in and by his said bill he hath already prayed, &c.

JOHN DRYSDALE,
Solicitor for Petitioner.

And afterwards, before the superior court for the district of East Florida, holden at the court-house in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-four, to which term this cause had come by regular continuance, to wit, on Tuesday, the twenty-first day of said term, and the nineteenth day of August, the following entry of record was made in this cause, to wit:

Hearing of Cause.

MOSES E. LEVY
against
THE UNITED STATES OF AMERICA. } Land Claim, 14,500 Acres.

This day came as well the counsel for the said claimant, as the counsel for the United States, and this cause came on to be heard this day, and the petition of the said claimant and the answer of the attorney of the United States, together with the replication of the said claimant, were read to the court. The counsel for the claimant offered and read in evidence in this case, a certified copy of the memorial of F. M. Arredondo, senior, for a grant of thirty thousand acres of land, with the decree of the governor thereon, dated 24th March, 1817. The counsel for the said claimant then offered in evidence a certified copy of the petition of the said Arredondo for, and the order of survey of said land, dated 8th April, 1819, to the receiving of which in evidence, the counsel for the United States objected, because the same bears date after the 24th January, 1818, which objection was overruled by the court, and the said document admitted in evidence, but subject to the opinion of the court as to its admissibility on hearing the argument in this cause. The counsel for the said claimant then offered in evidence a copy of the certificate and plat of survey of 14,500 acres, part of the said 30,000 acres, being the quantity claimed in this case, dated 5th August, 1819, to the receiving of which in evidence, the counsel for the United States objected, because the same bears date after the 24th January, 1818, and because the said survey does not follow the calls of the grant in this case, which objections were overruled by the court, and the said document admit-

ted in evidence, but subject to the opinion of the court as to its admissibility on hearing the argument in this cause. The counsel for the said claimant then offered in evidence a certified copy of a royal title to the said Fernando M. Arredondo, senior, for 14,500 acres of land, dated 9th August, 1819, to the receiving of which in evidence, the counsel for the United States objected, because the same bears date after the 24th January, 1818, and because the said royal title does not follow the calls of the concession, which objections were overruled by the court, and the said document admitted in evidence, but subject to the opinion of the court as to its admissibility on hearing the argument in this cause.

On motion of the claimant's counsel, leave is given him to introduce in evidence, and file the mesne conveyances in this case, the same being open to objection from the counsel for the United States. The counsel for the said claimant then offered in evidence in this case, the deposition of Joseph M. Hernandez, taken in the case of the heirs of F. M. Arredondo, senior, against the United States, to the receiving of which in evidence, the counsel for the United States objected, alleging, that the testimony of the said Joseph M. Hernandez is illegal and improper, which objection was overruled by the court, and the said testimony admitted in evidence, but subject to the opinion of the court as to its admissibility on hearing the argument in this cause. The counsel for the said claimant then offered and read in evidence, the deposition of George J. F. Clarke, as taken in the said case of Arredondo against the United States. The counsel for the claimant prayed the court for leave to withdraw from the evidence in this case, the survey and royal title above set forth and offered in evidence by the said claimant, and leave is given them to withdraw said evidence, provided the documents remain on file, that such use may be made of them by the counsel for the United States as shall be fit and proper.

And the counsel for the said claimant not being at this time prepared to proceed further in this cause, the further hearing thereof was postponed till to-morrow morning at 10 o'clock.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-four, to wit, on Friday, the twenty-fourth day of said term, and the twenty-second day of August, the following entry of record was made in this cause, to wit:

Further Hearing of Cause.

MOSES E. LEVY
against
THE UNITED STATES OF AMERICA. } Land Claim, 14,500 Acres.

This day came as well the counsel for the said claimant, as the counsel for the said United States, and the court proceeded in the further hearing of this cause. The counsel for the United States offered in evidence in this case certified copies with translations of the following documents, to wit:

Concession to Henry Younge for one hundred acres, dated 19th May, 1819, and plat and certificate of survey to Henry Younge, dated 18th Jannary, 1816; also, plat and certificate of survey to Domingo Acosta, dated 1st June, 1821; also, plat and certificate of survey to Josiah Gray, dated 8th May, 1816; also, plat and cerficate of survey to Francisco Barbe, dated 8th February, 1817; also, plat and certificate of survey to Charles Clarke, dated 27th March, 1821; also, plat and certificate of survey to Josiah Gray, dated 10th April, 1817; also, plat and certificate of survey to Hibberson and Younge, dated 12th October, 1815; also, plat and certificate of survey to Josiah Gray, dated 6th May, 1816; also, plat and certificate of survey to John Houston, dated 1st May, 1816; also, plat and certificate of survey, to Jorge Atkinson, dated 25th February, 1812, to the receiving of which documents in evidence, the counsel for the claimant objected, which objection was overruled by the court, and the said documents admitted in evidence, but subject to the opinion of the court as to their admissibility on the hearing of the argument in this cause. And by consent of the parties in this cause, the further hearing thereof was postponed till the term of this court, to be holden on the second Monday in July next.

And afterwards, before the superior court for the district of East Florida, holden at the court-house in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-five, to wit, on Thursday, the seventh day of said term, and the twenty-third day of said month, the following entry of record was made in this cause, to wit:

Hearing Continued.

MOSES E. LEVY
vs.
THE UNITED STATES OF AMERICA. } Land Claim, 14,500 Acres.

This day came as well the counsel for the said claimant, as the counsel of the said United States, and pursuant to leave given at the last term of this court, the claimant's counsel offered in evidence in this cause, the bill of sale from F. M. Arredondo to Hernandez and Chaviteau, dated 3d August, 1820. And on motion of the counsel for the said claimant, leave is given him to amend the petition filed in this case.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-five, to wit, on the twenty-fifth day of said term, and the fourteenth day of August, the following entry of record was made in this cause, to wit:

Hearing Postponed.

MOSES E. LEVY
vs.
THE UNITED STATES OF AMERICA. } Land Claim, 14,500 Acres.

This day came as well the counsel for the said claimant, as the counsel of the United States; and on motion of the claimant's counsel, it is ordered, that the further hearing of this cause be postponed till the July term next of this court.

And afterwards, before the superior court for the district of East Florida, holden at the court-house in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-seven, to which term this cause had come by regular continuance, to wit, on Tuesday, the third day of said term, and the eighteenth day of July, the following entry of record was made in this cause, to wit:

Hearing Continued.

MOSES E. LEVY
vs.
THE UNITED STATES OF AMERICA. } Land Claim, 14,500 Acres.

This day came as well the counsel for the said claimant, as the counsel for the United States, and the claimant's counsel offered and read in evidence, the depositions of Gabriel W. Perpall and Joseph S. Sanchez, as taken in this case; also, the deposition of James Hall, as taken in the case of F. M. Arredondo against the United States, for 15,000 acres; also, conveyance from Hernandez and Chaviteau, by their attorney, Moses E. Levy to A. M. Cohen, and from A. M. Cohen to M. E. Levy; all of which were received in evidence without objection from the United States attorney; and the evidence and testimony in this case being now concluded, this claim was submitted to the court for its decree thereon.

Evidence and Testimony offered and read in this cause at the hearing thereof, and referred to in the foregoing entries of record. That numbered from one to nine, inclusive, having been offered by the claimant; and that numbered from ten to nineteen, inclusive, having been offered by the counsel for the United States, to wit:

No. 1.

Offered and read by Claimant.

Memorial of Arredondo for Grant.

TO THE GOVERNOR:

Don Fernando de la Maza Arredondo, inhabitant of St. Augustine, and actually residing in the city of Havana, through his son of the

same name, residing in this place, to your Excellency respectfully showeth, that he has the honor of having served His Majesty in different employments and destinations, and particularly in the department of Commissary of the Indians, without any salary or any other emolument whatever, for more than twenty years. Having discharged the duties of that office with the utmost exactitude to the satisfaction of all the governors of this place, contributing thereby to the peace and harmony which existed with those savages, with which commission, with that of the comptroller pro tem. of the Royal Military Hospital of this town, which he likewise discharged for many years without any salary or emolument, which meritorious services have saved to the royal revenue many thousands of dollars, as is well known to your Excellency and to the public authorities of this place. Latterly, after obtaining a discharge from these different employment, he separated himself from the service of His Majesty to attend to the discharge of his duty towards his family, he engaged himself in the fatiguing service of patrols and aid-de-camp to the Governor de Estrada, in consequence of the invasion of this province in the year 1812, and for want of officers for that service, in which he was occupied until the year 1813, when, having been elected by a majority of votes, with all the necessary solemnities on the occasion, elector of the parish and district of this said province, he was obliged to go to the city of Havana, and remain there as one of the deputies of the provincial junta, to discharge the said duty, he was under the necessity as a loyal subject, to expend large sums, which he willingly did, the service of his king and country, being well persuaded, that he would be rewarded for it at a future period. In effect, he has been informed, that the royal order of His Majesty of the 29th March, 1815, directs that remuneration of grants of lands be given to all the individuals who were armed in the defence of their country during the insurrection which began in 1812, and as the petitioner is one of them, and is entitled for this reason to said gifts, as also being one of the oldest settlers, and having augmented his family and negroes ever since the cession of this province to His Majesty, and one of those whom the royal ordinances and laws recommend that they may be attended to, both in their quality of first settlers, as also on account of their distinguished services ought to be preferred in the partition of land.

He, therefore, prays your Excellency will be pleased to grant him in absolute property 30,000 acres of land, to say, 15,000 acres on the south west of the large lagoon, known by the name of Lake George, which survey may be so made, that a creek of fresh water situated in that place may occupy the centre of the front thereof, and the remaining 15,000 acres on the west side of the St. Johns river, the measurement of which is to commence from the old Indian Chuchichatty path opposite the site on which the firm of Panton Leslie had their store established, known by the name of the Upper Store, being at the south side of the great lagoon, known by the name of Lake George, and thence is to run southerly until it completes the number of acres; and as the actual circumstances of the province does not permit at

present the measurement and chaining of said lands, and at the same time, as the survey could not take place for want of surveyors, as Don George Clarke, named by this government, has other occupations which give him no time to attend to it, he, therefore, hopes from the justice of your Excellency, that you will be pleased to suspend the delivery of the titles of the property whilst the memorialist does not obtain the plats of said lands, in order that their situation and limits may be specified with exactness for perfection, the location and situation of the same, and in the meantime, the grant which your Lordship may think fit to make him, may serve as a title under your decree in continuation; for it is the wish of the memorialist, that when the said title shall be given him, that it may have all the requisites necessary; a favor which he hopes to receive from the justice of your Excellency.

St. Augustine of Florida, 21st March, 1817.

FERNANDO DE LA MAZA ARREDONDO, JR.

Grant to Arredondo.

ST. AUGUSTINE, 24th March, 1817.

In attention to the services which this party specifies, which are manifest and notorious, and making use of the power conferred on me by the laws and the royal will, I grant, in the name of His Majesty, and the royal justice which I administer, to Don Fernando de la Maza Arredondo, senior, the 30,000 acres of land he solicits in absolute property, in the places he designates, without prejudice to a third person, of which titles of dominion will be given as soon *as soon* as the plats to be made by the surveyor, be presented. In the meantime, this decree will serve him as an equivalent in all its parts, and with the foregoing petition it will be filed in the archives of the notary of the government and royal finance office, from whence the interested party will be furnished with a certified copy of the proceedings properly authenticated and in due form, in order that this concession may be duly authenticated, and that he may be able to make use of said lands, and to dispose of them as he may think proper.

Signed COPPINGER.

Before me,

JUAN DE ENTRALGO,
Notary to the Government.

St. Augustine, 24th May, 1832.—I certify that the preceding is a correct translation of the Spanish document annexed.

A. GAY, *Translator and Interpreter of the Superior Court.*

No. 2.

Offered and read by Claimant.

TRANSLATION.

Petition for Order of Survey.

His Excellency the Governor:

Don Fernando de la Maza Arredondo, junior, an inhabitant of this city, and in the name of my father of the same name, now residing in the Havana, and in my quality of his attorney in fact, with due respect states to your Excellency, that by a decree of the 24th of March, 1817, your Excellency thought proper to grant to his father aforesaid in absolute property, thirty thousand acres of land, located in the two places which are designated and authenticated in the annexed certificate; and as the unfortunate events of this province have not permitted that the said lands should be surveyed and delineated by the surveyor, General Don Jorge Clarke, who besides has not had the time to do it, as he has been, and is still engaged in other affairs of the goverment, in the northern district, and as your petitioner has now the opportunity of carrying the said survey into effect, by the means of Don Andres Burgevin, an intelligent person, who, by commission of this Government, has filled the vacancy of the said Clarke, and the said Clarke having on former occasions refused to repair to the localities of this grant, for fear of the Indian hostilities, all which impediments have been the cause of his father being deprived of the titles of ownership to which he is entitled, as it is already expressed in the said decree of the 24th March, 1817.

Therefore, your petitioner supplicates your Excellency to be pleased to qualify Don Andres Burgevin, in order that he may proceed to the survey, and run the lines of the said tracts, in conformity to the terms specified in the grant thereof, separating from the second location five hundred acres, which he shall have to survey, commencing about one mile south of the old pass of the Chocochate Indians, in order that the grant consist in three different tracts, one of fifteen thousand acres, another of fourteen thousand five hundred, and the third of the mentioned five hundred; which favor he hopes to receive from the justice of your Excellency.

St. Augustine of Florida, 8th June, 1819.

FERNANDO DE LA MAZA ARREDONDO, Jr.

St. Augustine, 8th June, 1819.—As he solicits the acceptation and oath of Don Andres Burgevin being previously received, and the adjoining proprietors summoned.

COPPINGER.

Before me,

JUAN DE ENTRALGO,
Notary of the Government.

In St. Augustine on the same day, month, and year, I notified the preceding decree, which precedes to Don Fernando de la Maza Arredo, which I certify.

ENTRALGO.

On the same day, I notified to Don Andres Burgevin the appointment of surveyor conferred on him, whereupon, he said, that he would accept, and he did accept it, promising under his legal oath to exercise well and faithfully the functions of his commission according to his best knowledge and understanding, which I certify.

ANDRES BURGEVIN.

Before me,

JUAN DE ENTRALGO.

I certify the foregoing to be a true and correct translation of the Spanish document annexed.

JOSEPH S. SANCHEZ, *Interpreter and Translator Superior Court E. D. F.*

No. 3.

Offered and read by the Claimant.

Cerficate and Plat of Survey.

Being the annexed certificate and plat of survey for 14,500 acres of land.

(Here is to follow the certificate and survey.)

TRANSLATION.

I, Don Andres Burgevin, in my quality of surveyor appointed by decree of this Government, made on the 8th of June of the present year, in favor of the interested party, do certify that I have surveyed and delienated for Don Fernando de la Maza Arredondo, senior, a tract of land which contains fourteen thousand and five hundred acres, situated on the west side of the river St. John, the northern part commencing at the old pass of the Chocochate Indians, and they being conformable in all other circumstances to the preceding plot.

In testimony thereof, I give the present, which I sign in St. Augustine of Florida, on the 5th of August, 1819.

ANDRES BURGEVIN.

St. Augustine, 24th May, 1832.—I certify that the preceding is a correct translation of the Spanish document annexed.

A. GAY, *Translator and Interpreter of the Superior Court.*

No. 4.

Offered and read by the Claimant.

Royal Title to Arredondo.

TRANSLATION.

Don Jose Coppinger, Colonel of the Royal Armies, Civil and Military Governor, and Chief of the Royal Domain in this City of St. Augustine of Florida, and Province thereof, for His Majesty:

Whereas in a royal order of the twenty-ninth of March, one thousand eight hundred and fifteen, His Majesty has been pleased to approve the favors and rewards proposed by my predecessor, Brigadier Don Sabastian Kindelan, for the officers and soldiers both of the regular and of the militia corps, and other individuals of this province, who contributed to the defence thereof in time of rebellion, one of the said favors consisting in the distributions of royal lands, and in attention that Don Fernando de la Maza Arredondo has represented to me the distinguished and extraordinary services which he has rendered in various employs, which he has exercised with utility and economy to the royal treasury, and for the service of the King and for the country; as also, for the defence of this said province when it was invaded in the year one thousand eight hundred and twelve, as it appears more at large in his petition, which he has presented to me under date of the twenty-first of March, one thousand eight hundred and seventeen, in consideration of which, and in consequence of the authority which I exercise, I did think proper, by my decree of the twenty-fourth of the same month of March, to accede to his request, soliciting, that in remuneration of said services, a grant should be made to him of thirty thousand acres of land in absolute property, which lands have been located in three distinct places, and one of the said parcels containing fourteen thousand and five hundred acres, is situated west of the river St. Johns, the survey thereof commencing north at the old path of the Indian Chocochates, and the dimensions and boundaries thereof are known under the following form:

The first line runs south, seventy-five degrees west, measuring one hundred and seventy-six chains; the second line runs north, twenty-five degrees west, measuring five hundred and twenty chains, in a parallel line with the river St. Johns, until meeting the road to Acklewaha Town, which road froms that point to the river form the last line, and terminates in the same path of the Indians, as it appears more in detail by the plat formed by the surveyor, Don Andres Burgevin, under date of the fifth instant, in consequence of my decree of the eighth of June of the present year, by which I qualified him for the

purpose, and in virtue of what was adjusted by my said decree of concession of the twenty-fourth of March, one thousand eight hundred and seventeen, the whole of which forming the expedient, is deposited in the archives of the present notary.

Therefore, and in attention to the said recommendable services, in accordance with the will of the Sovereign, and with what the laws provide, to reward with distinction those who are entitled to reward, due attention being paid to the nature of said services, and to the quality of those who render them, I have determined to grant, as in the name of His Majesty, and of his royal justice which I administer, I do grant to the aforesaid Don Fernando de la Maza Arredondo, the mentioned fourteen thousand and five hundred acres of land in the indicated place, without prejudice of a third party, for himself, his heirs, and successors, in absolute property, and to issue to him, as I do hereby issue the corresponding title, by which I divest the royal domain of the right and dominion which it had to the said tract, and I cede and transfer the same to the mentioned Don Fernando de la Maza Arredondo, his heirs and successors, in order that in consequence thereof, they possess it as their own, use and enjoy it without any encumbrance whatever, with all its inlets, outlets, uses, customs, rights, and services, which it had, has, and which in fact and of right appertain and may relate thereto; and in order that if it is their will, they may sell, cede, transfer, and alienate it, as may best suit them. To the whole of which I interpose my judicial authority as far as I can, and of right ought in virtue of what has been exposed and of the sovereign will.

Given under my hand, and countersigned by the subscribed notary of the Government and of the royal domain, in this said city of St. Augustine of Florida, on the ninth of August, one thousand eight hundred and nineteen.

JOSE COPPINGER.

By order of his Lordship:
JUAN DE ENTRALGO, *Notary of the Government and of the Royal Domain.*

St. Augustine, 24th May, 1832.—I certify that the preceding is a correct translation of the Spanish document annexed.

A. GAY, *Translator and Interpreter of the Superior Court.*

No. 5.

Being the testimony of Joseph M. Hernandes and George J. F. Clarke, taken under commission in the case of the heirs of F. M. Arredondo vs. The United States, and offered and read by the claimants; the same being so copied as to be made applicable to this case. to wit:

Testimony of Hernandez and Clarke.

MOSES E. LEVY
vs.
THE UNITED STATES OF AMERICA. } Land Claim, 14,500 Acres.

Interrogatories to be propounded to George J. F. Clarke and Joseph M. Hernandez, witnesses to be sworn and examined in behalf of the claimant in the above entitled cause, before Kingsley B. Gibbs, by consent:

First. How long have you resided in East Florida; and in what official capacities, if any, have you served during that time, as well under the Spanish as under the American Government?

Second. Had you or not during the domination of the Spanish Government over the Floridas, an opportunity of becoming familiar with the practice of that Government in relation to the appropriation and allotment of lands to the inhabitants of said provinces?

Third. In making the surveys of lands that had been granted, what rule prevailed in regard to the survey, when it was found that other previous grants, or appropriation of lands were situated within the prescribed location of such granted lands? Was it or not the custom in such cases, so to extend the lines of the survey as to make up to the grantee the full quantity of land granted him exclusively of the quantity covered by such other prior grants as had been located within the limits of said lines.

Fourth. If lakes of water, or marshes, or other unarable lands, were found to exist within the body of lands that had been granted, were they included and counted in the number of acres laid off by the surveyor to the grantee, or were they excluded from computation in the survey, and the lines of such survey so extended on all sides, as to give to the grantee the full number of acres granted him in arable land?

Fifth. If, in reply to the preceding interrogatory, you state the existence of any rule on the subject of which inquiry is made, say, if such rule was or not, one which was observed generally in the survey of grants?

Cross Interrogatories.

First. If to the second direct interrogatory you answer that you had an opportunity of becoming familiar with the practice of the Spanish Government in relation to the appropriation and allotment of lands to the inhabitants of East Florida? Please to state whether said practice was or was not based upon, and regulated by the laws and ordinances of Spain, and such rules and regulations as were from time to time ordained and established by the local authorities of the said province.

Second. If you answer to the third direct interrogatory that it was the practice [when it was found after a concession or grant had is-

sued, that the same, or a part of the same lands, embraced by it, had been previously granted] to extend the lines of the survey so as to give the grantee his full quantity of acres, exclusively of the quantity previously granted; please to state all the instances within your recollection, wherein the said practice obtained; state also the names of the parties interested in such surveys; where the said lands are situated? Who made said surveys, and by what and by whose order and authority they were so made.

Third. If to the fourth direct interrogatory you answer that it was the practice when lakes of water, marshes, and other unarable lands were found to exist within the body of lands that had been granted, to exclude them from computation, and so to extend the lines of the survey as to give to the grantee the full quantity of acres granted of arable land; please to state all the instances within your recollection wherein the said practice obtained; state also the names of the parties interested in such surveys; where the said lands are situated, by whom said surveys were made, and by what and by whose order and authority they were so made?

ALLEN, *for the United States.*

SUPERIOR COURT, *East Florida.*

MOSES E. LEVY
vs.
THE UNITED STATES OF AMERICA. } Land Claim, 14,500 Acres.

The answers of Joseph M. Hernandez to the interrogatories and cross interrogatories hereto annexed; the said Joseph M. Hernandez being first duly sworn:

To the first interrogatory, the witness answers and says, I have resided in East Florida pretty much all my life time, with the exception of a few years. Under the Spanish Government I served as a member of the town council or municipal authorities of this city, and I frequently conducted the English correspondence of some of the governors within this province, and was attached on one or two public occasions to the suite of governors Kindeland and Coppinger. Under the American Government I have served as delegate in Congress from this Territory; and now hold the office of Brigadier General, and in command of the second brigade Florida militia.

Second interrogatory, witness answers, I have a general idea of the manner in which lands were granted during the domination of the Spanish Government over the Floridas.

Third interrogatory, witness answers, the surveyor, when it was found that other grants or appropriation of lands were situated within the limits of a grant made, would inform the grantee of that fact, who would either apply to the governor for a change of location, or have his lines extended so as to embrace the quantity granted, if the vacant land immediately adjoining admitted of its being done.

Fourth interrogatory, witness answers, lakes, marshes, and lands

habitually under water, were always excluded and not counted in the number of acres to be laid off by the surveyor, and were more properly considered as appendages of which the grantee had a right to use and improve in any manner in which he could make them advantageous to him, provided such lakes or lands covered with water were not among the common highways of the country, such as rivers, creek, &c., which no one had a right to stop; and the lines of a survey of a grant of land were so extended on all sides as to give to the grantee the full number of acres granted him, without including lands and marshes such as above described.

Fifth interrogatory, witness answers, as far as my knowledge extends, it was.

Cross Interrogatories.

To the first cross interrogatory, the witness answers and says, yes, they were.

Second cross interrogatory, witness answers, I cannot recollect a case at present such as is referred to in this interrogatory; but I think there must be several instances of the kind.

Third cross interrogatory, witness answers, I know no instance in which lands habitually covered with water or marshes, have been embraced in the survey. I know of no instance in which a different practice has been followed. In every grant that I know of the lands habitually covered with water, or the marshes, have not been included in the survey, but were, as I have before stated, considered as appendages of the land, that the grantee could ditch and use as he pleased.

JOSEPH M. HERNANDEZ.

Taken, sworn to, and subscribed before me, this 6th day of August, 1834.

K. B. GIBBS, *Commissioner.*

SUPERIOR COURT, *East Florida.*

MOSES E. LENY
vs.
THE UNITED STATES OF AMERICA. } Land Claim, 14,500 Acres.

The answers of George J. F. Clarke to the interrogatories and cross interrogatories hereto annexed, the said George J. F. Clarke being duly sworn:

To the first interrogatory, witness answers, I am a native of East Florida, and have been a constant resident therein. During the last eleven years of the Spanish Government I was surveyor general of the province, and held other offices; but none under the American Government.

Second interrogatory, witness answers, yes.

Third interrogatory, witness answers, that it was the rule and practice in such cases to extend a line or lines so that the grantee got his full quantity at the place mentioned, and on the side or sides he preferred.

Fourth interrogatory, witness answers, that lakes, ponds, marshes, and creeks were excepted to the grantee, he got his quantity by altering his lines mentioned in his grant independent of these. The navigable lakes and creeks always remained public highways; ponds or marshes that bordered on, or come within a grantee's lines, he, the grantee, had the right of improving to his benefit independent of the quantity mentioned in his grant.

Fifth interrogatory, witness answers, that the rules and practices mentioned in the preceding interrogatory and answer, were observed generally.

Cross Interrogatories.

To the first cross interrogatory, the witness answers, I do not recollect to have ever heard of any law or ordinance of Spain being called in as a basis for the land affairs of this province. The governors extensively absolute in all their departments, appeared conclusively so in the principle and practice of partitioning and granting away the King's lands, and each acted in such cases, as far as he chose, independent of others, whilst a disposition to please and accommodate the grantees was evident in all their proceedings.

Second cross interrogatory, witness answers, I cannot at this distant period recur with certainty from memory to any of the particulars in this interrogatory required. I acted in such cases, where they occurred, as above, during the whole course of my services as surveyor general.

Third cross interrogatary, witness answers, I cannot from memory specify the particular instances.

GEORGE J. F. CLARKE.

Taken, sworn to, and subscribed before me, this 11th day of August, 1834.

K. B. GIBBS, *Commissioner.*

As commissioner named in the commission hereto annexed, I do certify, that after being sworn myself, I did examine the witnesses named in said commission, under oath, and their answers to the interrogatories and cross interrogatories hereunto annexed, are truly and correctly herein set forth.

August 11th, 1834.

K. B. GIBBS, *Commissioner.*

No. 6.

Offered and read by the Claimant.

TERRITORY OF FLORIDA.

Commission to examine Perpall and Sanchez.

To Kingsley B. Gibbs, greeting:

Whereas certain claims to land are now depending in the superior court for the eastern district of Florida, in which said claims the heirs of F. M. Arredondo and Moses E. Levy are claimants, and the United States of America, defendant; and it being necessary to the investigation of said causes to have the testimony of Gabriel W. Perpall and Joseph S. Sanchez; the said Kingsley B. Gibbs having been named by the said claimant, and the said defendant as commissioner to examine said witnesses on certain interrogatories.

Know ye, that confiding in your prudence, ability, and integrity, you are by these presents appointed, and full power and authority are hereby given to you, diligently to examine the aforesaid witness upon certain interrogatories to be exhibited to you, as well on the part of the said claimant as on the part of the said defendant, or of either party in said cause, and therefore you are hereby authorized and requested, on a certain day, or on certain days, and at a certain place, or at certain places, to be appointed by you for that purpose, to cause the said witnesses to come before you, and then and there to examine each of them apart on the said interrogatories, on their corporal oaths or solemn affirmations first taken before you, and to such their examinations and reduce them to writing on paper, and when you shall so have taken them, to sign the same with your name, and enclose and seal the whole together conformably to the instructions hereunto subjoined.

And you are hereby further requested, that before you act in, or be present at the swearing or solemn affirming, and the examining of any of the said witnesses, you do make oath or solemn affirmation that according to the best of your knowledge, you will truly, faithfully, and without partiality to any, or either of the parties in said cause, take the examination and deposition of every witness produced and examined by virtue of this commission, upon the interrogatories hereunto annexed and produced to you; and that you will not publish or make known to any person whomsoever, except the clerk or clerks who may by you be employed and sworn to secrecy in the execution of this commission, the contents of any of the depositions of the witnesses to be taken by you in this commission named, until publication shall pass by rule or order of said superior court.

Witness the honorable Robert R. Reid, judge of our superior court for the district of East Florida, this 10th day of October, A. D. 1834.

[SEAL.] K. B. GIBBS, *Clerk.*

INSTRUCTIONS.

When the testimony is taken, the commissioner is required to sign his name at the bottom of each sheet of the depositions, and the whole after fixing and sealing the several sheets together, then to enclose the whole examination, commission, and all, in an envelope, sealed up with your name, written on the outside across the seal, and to enclose the packet on the corner thereof, with the names of the parties, and to direct the same to Kingsley B. Gibbs, clerk of the said court, at St. Augustine, and deliver it to him.

HEIRS OF F. M. ARREDONDO,
vs.
UNITED STATES. } Land Claim, 3 Cases.

MOSES E. LEVY
vs.
UNITED STATES. } Land Claim.

Testimony of Perpall and Sanchez.

Interrogatories to be propounded to Gabriel W. Perpall and Joseph S. Sanchez, witnesses to be sworn and examined in behalf of the claimants in the above entitled causes, before Kingsley B. Gibbs, by consent.

First. How long have you resided in East Florida, and in what official capacities, if any, have you served during that time, as well under the Spanish as under the American Government.

Second. Had you or not during the domination of the Spanish Government over the Floridas, an opportunity of becoming familiar with the practice of that government in relation to the appropriation and allotment of lands to the inhabitants of said provinces.

Third. In making the surveys of lands that had been granted, what rule prevailed in regard to the survey, when it was found that other previous grants, or appropriations of land were situated within the prescribed location of such granted lands? Was it or not the custom in such cases, so to extend the lines of the survey as to make up to the grantee the full quantity of land granted him, exclusively of the quantity covered by such other prior grants as had been located within the limits of said lines?

Fourth. If lakes of water or marshes, or other unarable lands, were found to exist within the body of lands that had been granted, were they necessarily included and counted in the number of acres laid off by the surveyor to the grantee; or were they, if desired by the grantee, excluded from computation in the survey, and the lines of such survey so extended on all sides as to give to the grantee the full number of acres granted him in arable land?

Fifth. If, in reply to the preceding interrogatories you state the existence of any rule on the subject of which inquiry is made, say, if

such rule was or not one which was observed generally in the survey of lands, whenever desirable to the grantee?

DRYSDALE, SMITH, AND LEVY.
For Claimants.

Cross Interrogatories.

First. If to the second direct interrogatory you answer, that you had an opportunity of becoming familiar with the practice of the Spanish Government in relation to the appropriation and allotment of lands to the inhabitants of East Florida; please to state whether said practice was not based upon, and regulated by, the laws and ordinances of Spain, and such rules and regulations as were from time to time ordained and established by the local authorities of this province?

Second. If to the third direct interrogatory you answer, that it was the practice (when it was found after a concession or grant had issued, that the same land or a part of the same, embraced by it, had been previously granted) so to extend the lines of the survey as to give to the grantee his full number of acres, exclusive of the lands previously granted; please to state all the instances, within your recollection, where the said practice obtained? State the names of the persons interested in such surveys? Who made them? and by whose order or authority they were so made? State, whether in case of interferences, it was not the duty of the surveyor, to designate and show on his official plat, the extent and precise locality of such interferences? If after a concession or grant had been regularly surveyed, returned, and registered or filed in the proper office, it was discovered that part of the lands so surveyed, had been previously granted to another, would you or not, and was it or not, the practice in such cases to apply to the governor (setting forth the facts of the case) for an order to re-survey the land, so as to give the grantee his full quantity of acres, by extending the lines of the survey, or to survey the the same quantity in another place?

Third. If to the fourth direct interrogatory you answer, that it was the practice, where lakes of water, marshes, or other unarable land were found to exist within the body of lands granted, to extend the lines of the survey, so as to give to the grantee the full number of acres granted of arable land, excluding from the computation said lakes, marshes, and other unarable lands; please to state all the instances within your recollection wherein the said practice obtained? the names of the persons interested in such surveys? who made them, and by whose order or authority they were so made? State whether in such cases it was not the duty of the surveyor, to ascertain by survey, the precise locality and extent of such lakes, marshes, or other unarable lands, and distinguish on the delineation or plat of survey, between the said lakes, marshes, &c., which were to be excluded and not computed, and those lands which were esteemed arable and to be computed? If after a concession or grant was regularly surveyed, returned, and filed in the proper office, it was found that there existed

within the body of said survey, lakes, marshes, or other unarable land, would you or not, and was it or not the practice in such cases, to apply to the governor (setting forth the facts) for an order to resurvey the lands so as to give the grantee his full number of acres at that place, by extending the lines of the survey, or to survey the proper quantity at another place.

The defendant excepts to all the preceding interrogatories, because they are irrelevant to the case, and because they are in other respects improper and illegal.

ALLEN, *for the United States.*

SUPERIOR COURT, *East Florida.*

MOSES E. LEVY
vs.
THE UNITED STATES. } Land Claim, 14,500 Acres.

The answers of Gabriel W. Perpall to the interrogatories and cross interrogatories hereto annexed, the said Gabriel W. Perpall being first duly sworn:

To the first interrogatory witness answers, I was born in East Florida, and have resided in it all my life, except thirteen years that I was absent. Under the Spanish Government in this province, I was appointed by Governor White, his deputy for the southern part of East Florida; was nominated by the governor, captain of militia; and I was elected alcade of the province under the the constitutional government of Spain. I have held no office under the American Government of East Florida.

To the second interrogatory witness answers in the affirmative.

To the third interrogatory witness answers, if the lands asked for by a person, were found upon examination to have been previously granted or owned by another; the governor upon application to him would grant other lands, and give directions to the surveyor to survey them.

To the fourth interrogatory witness answers, during the administration of Governor White, I got a grant of a tract of land at Mount Oswald, and the marsh attached to it was counted and included in the computation of the number of acres; but the government, since Governor White, in some instances, permitted marshes and lakes of water to be excluded from the survey, and not counted in the number of acres granted.

To the fifth interrogatory witness answers, I do not know of any rule on the subject referred to in the preceding direct interrogatory.

Cross Interrogatories.

To the first cross interrogatory witness answers, I cannot tell what the practice of granting lands was based upon, or regulated by, except it was the royal orders of the King.

To the second cross interrogatory witness answers, the practice was, according to my knowledge, as I have already stated in my answer to the third direct interrogatory.

To the third cross interrogatory witness answers, I cannot name an instance where lakes and marshes were excluded from the number of acres granted; but I know since Governor White's time, as I have stated in my answer to the fourth direct interrogatory, that in some instances the marshes and lakes were not included and counted in the number of acres; when a grant had been regularly surveyed, and the survey returned to the proper office, if the party wanted the survey altered, or another survey made, he had to apply to the governor for permission to have it done.

GABRIEL W. PERPALL.

Taken, sworn to, and subscribed before me, this 16th April, 1835.

K. B. GIBBS, *Commissioner.*

The answers of Joseph S. Sanchez to the interrogatories and cross interrogatories hereunto annexed, the said Joseph S. Sanchez being first duly sworn:

To the first interrogatory witness answers, I am a native of East Florida, and it has been my constant place of residence. I held no office under the Spanish Government. Under the American Government I have been elected member of the legislative council several times, and am now translator and interpreter of the superior court of East Florida.

To the second interrogatory witness answers in the affirmative.

To the third interrogatory witness answers, it was the custom when it was found that other previous grants were situated within the prescribed location of a grant, so to extend the lines of the survey as to make up to the grantee the full quantity of land granted him, exclusively of the quantity covered by such prior grant; but if a party was dissatisfied with the location of his grant in consequence of a part of it being covered by previous grants, he might, upon representing that fact to the governor, procure an order to change his location entirely.

To the fourth interrogatory witness answers, I think that marshes and land covered with water were never computed in the survey, but that the lines of the survey were so extended as to give to the grantee the full quantity of land, granted him, in dry land.

To the fifth interrogatory witness answers, I do not know of any rule or regulation on the subject referred to in the preceding interrogatory; but I think that it was the custom of the country so to survey the lands granted.

Cross Interrogatories.

To the first cross interrogatory witness answers, I do not know whether the practice of granting lands in this province, was based upon, or regulated by, the laws of Spain. I speak from what I know

to have been the practice in the country. There were regulations of the governors in reference to the granting of lands, but the governors themselves were not restricted by them.

To the second cross interrogatory witness answers, I cannot recollect a particular instance where the lines of a survey have been extended so as to give to the grantee the full number of acres granted, exclusive of lands previously granted, but I think upon reference to the public archives, many instances will be found where locations have been changed by the governor, because the land granted had been previously granted to another. I do not think the surveyor made an inquiry whether the land he surveyed had been previously granted or not, that was the party's business. After a grant had been regularly surveyed, and the survey filed in the proper office, it was the practice, if you wanted that survey altered, to apply to the governor for a new survey, or for permission to change the location of your grant.

To the third cross interrogatory witness answers, I can recollect of no particular instance where marshes or lakes of water were excluded from the computation in the survey, but, if reference will be had to the public archives, many instances may be found there. I do not know that it was the duty of the surveyor to delienate on his survey the extent or locality of lakes or marshes. I do not know of an instance where appplication was made to the governor for a re-survey because marshes or lakes of water were computed in the survey; the surveyor, according to my knowledge, never made a survey and computed in the number of acres marshes or lands covered with water.

JOSEPH S. SANCHEZ.

Taken, sworn to, and subscribed before me, this 17th day of April, 1835.

K. B. GIBBS, *Commissioner*.

As commissioner named in the commission hereto annexed, I do hereby certify, that after being duly sworn myself, I did examine the witnesses named in said commission, under oath, and their answers to the interrogatories and cross interrogatories annexed to said commission, are truly and correctly herein set forth.

Given under my hand, this 17th day of April, A. D. 1835.

K. B. GIBBS, *Commissioner*.

No. 7.

Offered and read by Claimant.

Being the testimony of James Hall, taken under commission in the case of the heirs of F. M. Arredondo vs. The United States, and offered and read by the claimant, the same being so copied as to be made applicable to this case, to wit:

Testimony of James Hall.

MOSES E. LEVY
vs.
THE UNITED STATES. } Land Claim, 14,500 acres.

Interrogatories to be propounded to James Hall, a witness to be sworn and examined in behalf of the claimant in the above entitled cause before Kingsley B. Gibbs.

First. How long have you resided in East Florida, and in what official capacities, if any, have you served during that time, as well during Spanish times, as since the cession of the province to the United States?

Second. Had you or not during the domination of the Spanish Government over the Floridas, an opportunity of becoming familiar with the practice of that government in relation to the appropriation and allotment of lands to the inhabitants of said province?

Third. In making the surveys of lands that had been granted, what rule prevailed in regard to the survey, when it was found that other previous grants or appropriations of land, were situated within the prescribed location of such granted lands? Was it or not the custom in such cases so to extend the lines of the survey as to make up to the grantee the full quantity of land granted him, exclusively of the quantity covered by such other prior grants as had been located within the limits of said lines?

Fourth. If lakes of water or marshes, or other unarable lands were found to exist within the body of lands that had been granted, were they included and counted in the number of acres laid off by the surveyor to the grantee, or were they excluded from computation in the survey, and the lines of such survey so extended on all sides as to give to the grantee the full number of acres granted him in arable land.

Fifth. If in reply to the preceding interrogatories you state the existence of any rule on the subject, of which inquiry is made, say if such rule was or not, one which was observed generally in the survey of grants.

SMITH & LEVY,
For the Claimants.

Cross Interrogatories.

First. If to the second direct interrogatory you answer that you had an opportunity of becoming familiar with the practice of the Spanish Government in relation to the appropriation and allotment of land to the inhabitants of East Florida, please to state whether said practice was or was not based upon, and regulated by, the laws and ordinances of Spain, and such rules and regulations as were from time to time ordained and established by the local authorities of the said province.

Second. If you answer to the third direct interrogatory that it was the practice (when it was found, after a concession or grant of land had issued, that the same, or a part of the same lands embraced by it, had been previously granted) to extend the lines of the survey, so as to give the grantee his full quantity of acres, exclusive of the quantity previously granted, please to state all the instances within your recollection wherein the said practice obtained; state also the names of the parties interested in such surveys, and by what and by whose order and authority they were so made.

Third. If to the fourth direct interrogatory you answer that it was the practice, when lakes of water, marshes, or other unarable lands, were found to exist within the body of lands that had been granted, to exclude them from computation, and so to extend the lines of the survey as to give to the grantee the full quantity of acres granted, of arable land, please to state all the instances within your recollection wherein the said practice obtained; state also the names of the parties interested in said surveys, where the said lands are situated, by whom said surveys were made, and by what and by whose order and authority they were so made.

ALLEN, *for the United States.*

SUPERIOR COURT, *East Florida.*

MOSES E. LEVY
vs.
THE UNITED STATES. } Land claim 14,500 acres.

The answers of James Hall to the interrogatories and cross interrogatories hereto annexed, the said James Hall being first duly sworn:

To the first interrogatory the witness answers, I have resided in East Florida 35 or 36 years. I was appointed during the Spanish Government in the year 1816 or 1817, surgeon on the river St. Johns; and since the American Government in this province, I have been a magistrate under the ordinances of General Jackson; and have been twice elected as a member of the legislative council of this Territory.

To the second interrogatory the witness answers, I have some small knowledge of the practice of the Spanish Government in relation to the appropriation and allotment of lands to the inhabitants of this province, by having lands to lay off of my own, and by seeing that of others laid off.

To the third interrogatory the witness answers, I have always understood upon the survey of a tract of land granted, that when it was found that other previous grants were situated within the limits of the grant made, that the lines of the grant were so extended as to make up to the grantee the full quantity granted, exclusive of the quantity contained in such prior grant. I know a case where that rule was followed, and that was in the case of the mill grant to Pritchard for 16,000 acres of land; upon surveying that tract it was

found that the limits of the grant included a tract, I believe, of three hundred acres, settled on by James Plummer, but who, I believe, had no grant for it, and the lines of the survey were so extended as to give to Pritchard his full quantity exclusive of the tract claimed by Plummer.

To the fourth interrogatory the witness answers, I believe that where lakes of water or marshes were found to exist within the limits of a grant, they were not counted, and the lines were so extended, if the grantee desired it, as to give him his full quantity of land, exclusive of land covered with water and marshes.

To the fifth interrogatory witness answers, that so far as his knowledge extends, he answers this question in the affirmative.

Cross Interrogatories.

To the first cross interrogatory the witness answers, I believe they were, though my knowledge of the Spanish laws does not extend far, not being acquainted with that language.

To the second cross interrogatory witness answers, the only instance I know of, is that of Pritchard's heirs mentioned in my answer to the third direct interrogatory. The survey of that tract was made by one of the deputies of the surveyor general, George J. F. Clarke. I think it was the duty of the surveyor to show upon his plat the land claimed under prior grants. I believe, that, if after the survey of a tract of land had been made and filed, it was discovered that the survey embraced land previously granted, it was the practice in such cases to apply to the governor for a re-survey of the land; but I cannot say what were the powers of, or the instructions to, the surveyor general.

To the third cross interrogatory witness answers, I think Pritchard's case is an instance of the practice mentioned in this interrogatory; in that case the survey crossed Julington creek, at a place, where I think, the creek is half a mile wide, but the creek was not counted, I think, in the survey. I suppose it was the duty of the surveyor to ascertain the extent of lakes or marshes included in a grant, and to distinguish them on the plat of survey. I should suppose that if, after a survey had been returned and filed, including lakes or marshes in the survey, and the grantee was dissatisfied with the survey, he would apply to the governor for an order to re-survey the land; but I again say, that I do not know what the powers of the surveyor general were, they appeared to be very extensive.

JAMES HALL.

Taken, sworn to, and subscribed before me, this 6th of September, 1834.

K. B. GIBBS, *Commissioner.*

As commissioner named in the commission hereto annexed, I do hereby certify, that after being duly sworn myself, I did examine the witness named in this commission, under oath, and his answers to

the interrogatories and cross interrogatories hereto annexed, are truly and correctly herein set forth.

Dated this 6th day of September, A. D. 1834.

K. B. GIBBS, *Commissioner*.

No 8.

Offered and read by Claimant.

TRANSLATION.

Convenance, Arredondo to Hernandez and Cheviteau.

BILL OF SALE.

Be it known, that I, Don Fernando de la Maza Arredondo, an inhabitant and merchant of this place, declare, that I am owner and lawful proprietor of a tract of land, comprehending fourteen thousand and five hundred acres, situated in the province of East Florida, and that Don Fernando, my son of the same name, owns another tract, comprehending thirty-eight thousand and four hundred acres, situated in the same province, which two tracts of land I proposed to sell to the firm of Hernandez and Cheviteau, under the condition that within the peremptory term of two months I should produce the power of attorney that might be necessary to that effect for that part which belongs to my son aforesaid, together with the title of property thereof, since as to what relates to the tract belonging to me, nothing more was wanting after seeing the testimony authenticated by the notary, Don Juan de Entralgo, one the ninth day of August, one thousand eight hundred and nineteen, which I presented to them, together with the plat explaining the locality and the boundaries of the two tracts, to which the firm of Hernandez and Chauviteau assenting with my warranty and surety in the part which belongs to my son Fernando, there remaided to be removed another, and in some measure greater difficulty, which was to prove that no alcabala was to be allowed for the reasons which they represented to his Lordship, the superintendent and sub-delegate of the two Floridas, in a memorial to him directed, on the seventh day of July last past, who having taken all the necessary informations to this effect: provided by his decree, issued on the twenty-fourth day of the same month of July, ordering, that in conformity to the information received and approved, the expedient should be returned to the general administrator, in order that it might expedite the bill which was solicited, exonerating from the duties of alcabala, and imposing the only condition that the bill of sale being executed, a testimony thereof should be presented to the government, and deposited in the national offices of Florida for the corresponding ends, in consequence of which it was thus resolved on the day of yesterday by the said administrator, as it appears more particularly in the expedient in nine leaves of paper, which is annexed in continuation, in order that it may produce its effects accord-

ing to justice; and in consequence of which, I grant for myself, and in the name of the said Don Fernando de la Maza, my son, in behalf of whom, and by way of greater precaution, I give my assent and surety willingly and spontaneously, expressly renouncing to all laws concerning the case, which assent and surety will be cancelled when I produce the power and title of property which I mentioned in the beginning, and in these terms, I truly sell, and forever transfer to the firm of Hernandez and Cheauviteau, inhabitants and merchants of this place, said two tracts of land, that which belongs to me, comprehending fourteen thousand and five hundred acres, and that belonging to my son, comprehending thirty-eight thousand and four hundred acres, situated both in the province of East Florida, under the boundaries and survey shown in the plot annexed to the proceedings which I exhibit, in order to annex them in continuation, and which also prove my title of property, and concerning the thirty-eight thousand and four hundred acres, belonging to my son, the title of property thereof, will be produced within the term of two months more or less, together with the power of attorney, which with a competent note, will be annexed to this bill of sale; and I do alienate in behalf of the said Hernandez and Cheaviteau, the said two tracts of land as they are at this moment, with their inlets and outlets, their services and customs, which in fact, and of right correspond and belong to them; and as my son and myself have possessed them free from incumbrance as it is declared by me and certified in continuation by the register of mortgages for the price and sum of twenty-five thousand dollars, out of which twenty thousand dollars correspond to the tract belonging to my son, and the remaining five thousand dollars to the tract owned and sold by me, and having received to my satisfaction the said two sums, amounting to twenty-five thousand dollars, and being the price of the two tracts, I renounce the proof of delivery, the exception of the money not being told, fraud and others concerning the case, and by way of a greater caution, I hereby give a formal receipt for the same, declaring that a just value and price of the two tracts is as above expressed, and if they are worth, or might be worth more, of the surplus or excess I gratuitously make to the purchasers a donation thereof, simple, perfect, and irrevocable, such as the law denominates donation *inter-vivos*, with all the declarations, clauses, liens, and requisites, for the greater consolidation thereof; in consideration of which, I separate myself and dispossess, and take from my lawful son, Don Fernando, the right of property, precept, and recourse possession, useful dominion, and other actions, real and personal, useful, mixt, and direct, which to the said two tracts of land we had, and possessed in the part and portion which, as it has been detailed, belongs to each, as under the mentioned conditions and guaranty, I cede, renounce, and transfer the whole to the firm of Hernandez and Cheaviteau, or their representatives, in order that they may possess, enjoy, and alienate the same as their own, as they see fit in virtue of this bill of sale, which I execute to them as a proof of real delivery, so that it is seen that they have acquired the possession, and can kept it without any other proof

being necessary to them, from which I exonerate them; and obligate myself to the security and execution of this bill of sale with my property, present and future, adding the guaranty clause for the punctual fulfilment thereof.

Whereupon, I renounce all the laws and privileges which might favor me, and that which prohibit it; and we, the firm of Hernandez and Cheaviteau being present, do accept in our behalf, this bill of sale, showing that the two mentioned tracts of land has been sold to us, in the conditions and price aforesaid, and hereby acknowledge to have received the said property, renouncing all the laws concerning the case, and for which we hereby grant a formal receipt.

Done, in the always faithful city of Havana, on the third of August, one thousand eight hundred and twenty.

I, the notary, certify that I know the parties, that they thus ratified, granted, and signed this, being present as witnesses, Don Rafael Garcia, Don Thomas Gomez, and Don Buenaventura Calvet.

HERNANDEZ AND CHEAUVITEAU,
FERNANDO DE LA MAZA ARREDONDO.

Before me, CAYETANO PONTON.

St. Augustine, 10th June, 1829.—I do certify that the preceding is a correct translation of the Spanish document annexed.

A. GAY, *Translator and Interpreter of the Superior Court.*

No. 9.

Offered and read by Claimant.

Conveyance, Hernandez and Cheviteau to Cohen.

MOSES E. LEVY, Attorney for Francisco Henandez and John Joseph Cheauviteau
to
ABRAHAM COHEN.

This indenture made the eighth day of June, in the year of our Lord one thousand eight hundred and twenty-one, between Francisco Hernandez, of the city of Havana, in the Island of Cuba, merchant, and John Joseph Chaviteau, of the same place, merchant, by Moses Elias Levy, of Philadelphia, in the Commonwealth of Pennsylvania, their attorney duly qualified, constituted, authorized, and appointed by them for that purpose, by a power of attorney bearing date on the twelfth day of November, eighteen hundred and twenty, of the one part, and Abraham M. Cohen, of the city of Philadelphia, merchant, of the other part, witnesseth: That the said parties of the first part, for and in consideration of the sum of thirty-five thousand eight hundred and seventy-five dollars to them in hand paid, at or before the sealing and delivery of these presents, the receipt whereof they do hereby acknowledge, and themselves therewith fully satisfied, con-

tented, and paid; have bargained, sold, aliened, transferred, conveyed, released, and confirmed, and by these presents, do bargain, sell, alien, transfer, convey, release, and confirm unto the said Abraham M. Cohen, his heirs and assigns, all that piece, parcel, or tract of land, situate, lying, and being in the Territory of East Florida, bounded as follows:

Situated on the west bank of the river San Juan, bounded on the north side by an old Indian path of the Chocochate Indians, and containing fourteen thousand five hundred acres of land more or less, which said tract of land was surveyed by Andres Burgevin, surveyor appointed by decree of the government of East Florida, a copy of a draft of whose survey is hereunto annexed marked A, reference being had thereunto, the boundaries, situation, and extent of the said tract will more fully appear.

Also, a certain other tract of land, situate, lying, and being in the said Territory of East Florida, situate on both sides of a creek called Alligator creek, beginning at seven miles west of an Indian town, called Alligator Town, (leaving the said distance of seven miles between the said Indian village and the now described tract,) being about twelve miles in length and five in breadth; that is to say, two and half miles on each side of said river, containing thirty-eight thousand four hundred acres, a plan or draft of which last mentioned tract is hereunto annexed marked B, by which the boundaries, situation, and extent of the said last mentioned tract will more fully appear, being the tracts conveyed by Don Fernando de la Maza Arredondo on behalf of himself and son to the said parties of the first part, by an instrument of writing bearing date at Havana, the third of August, 1820, and confirmed subsequently by Don Fernando, the son; together with all and singular the woods, underwoods, timbers, waters, water-courses, ways, houses, fences, improvements, rights, members, hereditaments, and appurtenances thereto belonging, or in any wise appertaining; and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and every part and parcel thereof; and also, all the estate, right, title, interest, benefit, property, claim, and demand whatsoever, in law or equity of them the said parties of the first part, and each of them, of, in, and to the same, and every part and parcel thereof.

To have and to hold the said lands, tenements, hereditaments, and all and singular the premises hereby granted, or intended so to be with the appurtenances unto the said Abraham M. Cohen, his heirs and assigns, to his own proper use and behoof forever. And the said Francisco Hernandez and John Joseph Cheaviteau for themselves, their heirs, executors, and administrators, separately, and not jointly, do promise, covenant, and agree, to and with the said Abraham M. Cohen, his executors, administrators, and assigns, that they have not jointly done, committed, or suffered any act, matter, or thing whatsoever, whereby the title of the said parties of the first part to the premises as above described has been, or can be impaired, weakened, destroyed, or incumbered, and that the said parties of the first part, each against his own acts and deeds, and against his own heirs, and

all person or persons claiming under him or his heirs, all and singular the premises unto the said Abraham M. Cohen, his heirs and assigns, shall and will warrant, and at all times defend by these presents.

In witness whereof, the parties to these presents have interchangeably hereunto set their hands and seals, the day and year first above written.

FRANCISCO HERNANDEZ.
JOHN JOSEPH CHAVITEAU.
By their Attorney, M. E. Levy.

Sealed and delivered in the presence of:
A. A. BROWNE,
J. SIMON COHEN.

Received on the day of the date of the above indenture, of above named Abraham M. Cohen, the sum of thirty-five thousand eight hundred and seventy-five dollars, the consideration above named.

M. E. LEVY.

Witness: J. SIMON COHEN.

UNITED STATES OF AMERICA.

Be it remembered that on the ninth day of June, Anno Domini one thousand eight hundred and twenty-one, before me, the Honorable Bushrod Washington, one of the associate justices of the Supreme Court of the United States, came Joseph Simon Cohen, of the city of Philadelphia, attorney at law, one of the subscribing witnesses to the above written indenture, who being duly sworn, did depose and say, that he was present and saw Moses Elias Levy, therein named, sign, seal, and deliver the said indenture as the attorney of Francis Hernandez and John Joseph Chaviteau, for the uses and purposes therein mentioned, and that the deponent, together with A. A. Browne, signed their names thereto as witness thereof.

J. SIMON COHEN.

Witness my hand and seal, the day and year last aforesaid.

BUSH. WASHINGTON.

Recorded, 18th January, 1822.

Conveyance, Cohen to Levy.

ABRAHAM M. COHEN
to
MOSES ELIAS LEVY.

This indenture made the eighth day of June, in the year one thousand eight hundred and twenty-one, between Abraham M. Cohen, of the city of Philadelphia, within named, of the one part, and Moses E. Levy, of the said city, of the other part, witnesseth: That the said party of the first part, for and in consideration of the sum of thir-

ty-five thousand eight hundred and seventy-five dollars, to him in hand paid, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged; have bargained, sold, aliened, assigned, conveyed, released, and confirmed, and by these presents do bargain, sell, alien, assign, convey, release, and confirm unto the said Moses Elias Levy, his heirs or assigns, those two several tracts or pieces of land described and contained in the within deed, with all and singular the appurtenances and hereditaments belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and even part thereof, and the estate, right, title, interest, benefit, claim, and demand whatsoever in law and equity of him, the said party of the first part, of, in, and to the same, and every part thereof. To have and to hold the same, and all and singular the premises hereby granted, or intended so to be with the appurtenances, unto the said Moses Elias Levy, his heirs and assigns, to his own proper use and behoof forever; and the said Abraham M. Cohen for himself, his heirs, executors, and administrators, doth covenant, promise, and agree, to and with the said Moses Elias Levy, his executors and administrators and assigns, that he has not done, committed, or suffered any act, matter, or thing whatsoever, whereby the title of the said party of the first part to the premises as above described and conveyed, has been, or can be weakened, impaired, destroyed, or incumbered, and that he against his heirs, and all person or persons claiming under him or them, all and singular the premises unto the said Moses Elias Levy, his heirs and assigns, shall and will warrant, and at all times defend by these presents.

In witness whereof, the said Abraham M. Cohen, hath hereunto set his hand and seal, the day and year first above written.

ABRAHAM MYERS COHEN.

Sealed and delivered in the presence of:

A. A. Browne,
J. Simon Cohen.

Received on the day of the date of the above indenture, of the above named Moses Elias Levy, the sum of thirty-five thousand eight hundred and seventy-five dollars, the consideration above named.

ABRAHAM MYERS COHEN.

Witness: J. Simon Cohen.

United States of America.

Be it remembered, that on the ninth day of June, Anno Domini one thousand eight hundred and twenty-one, before me, the Honorable Bushrod Washington, one of the associate justices of the Supreme Court of the United States, came Joseph Simon Cohen, of the city of Philadelphia, attorney at law, one of the subscribing witnesses to the preceding indenture, who being duly sworn, did depose and say, that he was present and saw Abraham M. Cohen, the grantor therein

named, sign, seal, and deliver the said indenture as his own act and deed for the uses and purposes therein mentioned; and that this deponent, together with A. A. Browne, signed their names thereto as witnesses thereof.

J. SIMON COHEN.

Witness my hand and seal, the day and year last aforesaid.

BUSH. WASHINGTON.

Recorded the 18th January, 1822.

TERRITORY OF FLORIDA, *St. John's County.*

I, Bernado Segui, clerk of the county court for the county aforesaid, do hereby certify the foregoing to be true and correct copies, recorded in my office, in Book A, folio 117 to 124.

Witness my hand and seal of office, at the city of St. Augustine, Territory and county aforesaid, this twenty-ninth day of August, in the year of our Lord one thousand eight hundred and thirty-six.

[SEAL.]

BERNADO SEGUI, *Clerk C. C.*

No. 10.

Offered and read on behalf of United States.

Memorial and Grant to Younge.

SENOR GOBERNADOR:

Don Enrique Younge settled in this town as a merchant, with due respect before your Excellency appears and says, that he obtained permission from the Government to occupy one hundred acres of land, on the north of Eagan's creek, near this town, as will be seen by the accompanying certificate, and having cultivated them two years successively, in which he has totally lost his labor, he finds that from its sandy and barren quality it will not admit of any improvement whatever. He supplicates your Excellency will be pleased to permit him to abandon this land, and take up a like quantity that there is vacant about two miles further south, bounding on the north by an old causeway; on the east by the beach sand hills; on the south by lands of Domingo Fernandez; and on the west by the marsh of said creek; with permission to improve also this said marsh. It is a favor which he solicits from the benevolence of your Excellency.

Fernandina, 10th of May, 1815.

Signed ENRIQUE YOUNGE.

ST. AUGUSTINE, 19th May, 1815.

At sight of what the petitioner states in this instance, the voluntary abandonment of the one hundred acres to which he refers, is acceded to, and instead thereof, there are granted to him an equal quantity at

the place which he solicits, without injury to third persons, and to which effect let there be issued to him through the secretary's office, the corresponding certificate.

Signed KINDELAN.

It was complied with, (a flourish.)

I certify the foregoing to be a true and correct translation of the Spanish document annexed.

JOSEPH S. SANCHEZ,
Int. and Tr. Sup. Court E. D. F.

Certificate and Plat to Younge.

Don George Clarke, lieutenant of militia of the city of St. Augustine of Florida, and surveyor general, appointed by the Government of the same city and province.

I certify that I have measured and delineated to Don Enrique Younge, merchant of this town, one hundred acres of land, which were granted to him by the government on the south of the creek, called Egan's creek, and ninety acres of marsh, which it has in front, also embraced in the said concession; which in all its requisites will be found as expressed in the following plat, and this according to its copy kept in the book of surveys in my charge.

Fernandina, 18th January, 1816.

Lands of Don John McClure.

[For Plat see original, page 61.]

Signed JORGE J. F. CLARKE.

Scale of 20 chains to an inch.

I certify the foregoing to be a true and correct translation of the Spanish document annexed.

JOSEPH S. SANCHEZ,
Int. and Tr. Sup. Court E. D. F.

No. 11.

Offered and read on behalf of the United States.

Certificate and Plat to Acosta.

Don George Clarke, Captain of the Northern District of East Florida, and Surveyor General of said Province, by Commission from his Government.

I certify that I have measured and delineated to Don Domingo Acosta, two hundred and fifty acres of land, in the place called Mount Tucker, on the east side of the river St. Johns, in full of a greater quantity which were granted to him in absolute property on the twentieth of March, one thousand eight hundred and seventeen; and which agrees with the following plat and its copy which I preserve. Northern District, 1st of June, 1821.

[For Plat see original, page 62.]

Scale of 20 chains to an inch.

Signed JORGE J. F. CLARKE.

I certify the foregoing to be a true and correct translation of the Spanish document annexed.

JOSEPH S. SANCHEZ,
Int. and Tr. Sup. Court E. D. F.

No. 12.

Offered and read in behalf of the United States.

Certificate and Plat to Gray.

Don George Clarke, Lieutenant of the Militia of the City of Augustine of Florida, and Surveyor General appointed by the Government of the same City and Province.

I certify that I have measured and delineated to Don Josiah Gray, ninety-five acres of land on the small island, called Pilot's Island, and in the neighboring pine land to it, both places situated upon the creek, called Clapboard creek, on the north side of the river St. Johns, in part of a greater quantity which was granted to him by the Government on the sixteenth of February, one thousand eight hundred and sixteen, and will appear in its circumstances, conformable to

the following plat and its copy preserved in the book of surveys in my charge.

Fernandina, 8th May, 1816.

[For Plat see original, page 63.]

Signed JORGE J. F. CLARKE.

I certify the foregoing to be a true and correct translation of the annexed Spanish document.

JOSEPH S. SANCHEZ,
Int. and Tr. Sup. Court E. D. F.

No. 13.

Offered and read on behalf of United States.

Certificate and Plat to Barbe.

Don Jorge Clarke, Lieutenant of the Militia of the City of St. Augustine of Florida, and Surveyor General appointed by the Government of said City and Province.

I certify that I have measured and delineated to Francisco Barbe, five hundred acres of land, at a place called Cedar creek, on the waters of the river St. Johns, and is in its situation, class, and boundaries, conformable to the following plat, and its copy preserved in the book of measurement of lands in my charge.

Fernandina, 8th of February, one thousand eight hundred and seventeen.

[For Plat see original, page 64.]

Signed JORGE J. F. CLARKE.

I certify the preceding to be a true and correct translation of the annexed Spanish document.

JOSEPH S. SANCHEZ,
Int. and Tr. Sup. Court E. D. F.

No. 14.

Offered and read on behalf of United States.

Certificate and Plat to Clarke.

Don George Clarke, &c.

I certify that I have measured and delineated to Don Charles Clarke, eight hundred and eighty acres of land, on the east side of lake George, in part of two thousand acres which were granted to him by the Government in property, on the twelfth of February, 1817, which land is conformable to the following plat, and its copy which I preserve.

St. Augustine, 27th of March, 1821.

[For Plat see original, page 65.]

Signed GEORGE J. F. CLARKE.

I certify the foregoing to be a true and correct translation of the Spanish document annexed.

JOSEPH S. SANCHEZ,
Int. and Tr. Sup. Court E. D. F.

No. 15.

Offered and read on behalf of United States.

Certificate and Plat to Gray.

Don George Clarke, Lieutenant of Militia of St. Augustine of Florida, and Surveyor General appointed by the Government of said City and its Province.

I certify that I have measured and delineated to Don Josiah Gray, one hundred and four acres of land, on the north side of the river St. Johns, and near the creek called Trout creek, which, with two other parcels already measured, makes up the complement of the two hundred and fifty acres, which were granted by the Government to him on the sixteenth of February, in the year one thousand eight hundred and sixteen, and in its circumstances agrees with the following plat, and its copy preserved in the book of surveys in my charge.

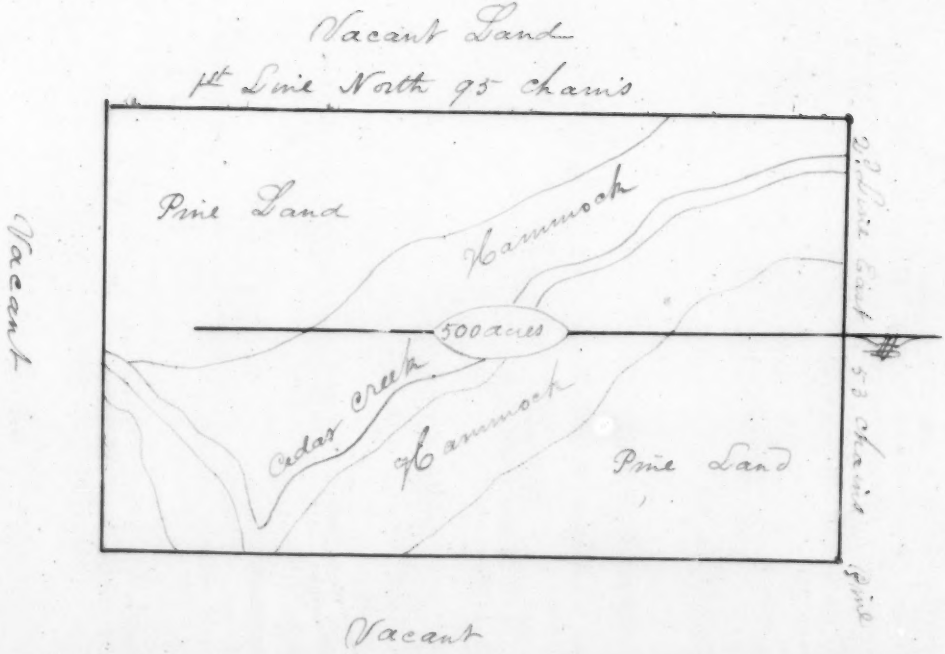
Fernandina, 10th of April, 1817.

[For Plat see original, page 66.]

Signed JORGE J. F. CLARKE.

No. 25. Page 42.—

Pilots Island 40 acres
Marsh
Marsh
Gray's plantation 44 acres
Pine
Pine
Pine


Vacant Land
1st Line North 95 chains
Pine Land
Hammock
500 acres
Cedar creek
Hammock
Pine Land
Vacant
Vacant
Vacant
2d Line East 52 chains
Pine

I certify the foregoing to be a true and correct translation of the Spanish document annexed.

JOSEPH S. SANCHEZ,
Int. and Tr. Sup. Court E. D. F.

No. 16.

Offered and read on behalf of the United States.

Plat and Certificate to Hibberson and Younge.

[For Plat see original, page 67.]

Don George Clarke, &c.

I certify that the Government having granted to Mess. Hibberson and Younge, five hundred acres of land in this town, they enclosed and improved one acre and three quarters of high land, and two acres and a half of marsh, which land I delineated on the north by Egan's creek, on the east by Amelia street, and lots of several individuals, and marshes of the said creek, on the south by St. Fernando street, and on the west by lots of James Cavedo and James Cashen Estrada street and marshes, and as these gentlemen have built extensively upon the high land, regulating the front of their land to the plan authorized for this town, I sign the present, and its copy which I preserve.

Fernandina, 12th of October, 1815.

JORGE J. F. CLARKE.

I certify the foregoing to be a rrue and correct translation of the certificate of survey and plat contained in the Spanish document annexed.

JOSEPH S. SANCHEZ,
Int. and Tr. Sup. Court E. D. F.

No. 17.

Offered and read by the United States.

Certificate and Plat to Gray.

Don George Clarke, Lieutenant of Militia of the City of St. Augustine of Florida, and Surveyor General appointed by the Government of the same City and its Province.

I certify that I have measured and delineated to Don Josiah Gray, fifty-one acres of land, at the place known as Dame's Point, on the

north side of the river St. Johns, in part of a greater quantity which was granted to him by the Government on the sixteenth of February, in the year one thousand eight hundred and sixteen; which in its circumstances is conformable to the following plat, and its copy preserved in the book of surveys in my charge.

Fernandina, 6th of May, 1816.

[For Plat see original, page 69.]

Signed JORGE J. F. CLARKE.

I certify the forgoing to be a true and correct translation of the Spanish document annexed.

JOSEPH S. SANCHEZ,
Int. and Tr. Sup. Court E. D. F.

No. 18.

Offered and read on behalf of United States.

Certificate and Plat to Houston.

Don George Clarke, Lieutenant of Militia of the City of St. Augustine of Florida, and Surveyor General appointed by the Government in said City and Province.

I certify that accordiug to the decree of the Government in favor of Don Juan Houston, the son, dated the sixteenth of February, one thousand eight hundred and sixteen, and place known as Pine Island; which is conformable to plat which follows, and its copy preserved in book of surveys in my charge.

Fernandina, Amelia Island, 1st of May, 1816.

[For Plat see original, page 70.]

Signed JORGE J. F. CLARKE.

I certify the foregoing to be a true and correct translation of the Spanish document annexed.

JOSEPH. S. SANCHEZ,
Int. and Tr. Sup. Court E. D. F.

No. 19.

Offered and read on behalf of United States.

Certificate and Plat to Atkinson.

Don George Clarke, Lieutenant of the Militia of the City of St. Augustine, Florida, and Surveyor General appointed by the Government of said City and Province.

I certify that in compliance with the superior order of the Government, I have measured and delineated to Don Jorge Atkinson, merchant of this Province, four hundred acres of land, situated on the east side of the river St. Johns, and place called by the name of St. Esabel's Battery, which land is like in figure, measurement, and quality to the following plat, and its copy preserved in the book of measurement in my charge.

Fernandina, 25th of February, 1812.

[For Plat see original, page 71.]

Signed JORGE J. F. CLARKE.

I certify the foregoing to be a true and correct translation of the Spanish document annexed.

JOSEPH S. SANCHEZ,
Int. and Tr. Sup. Court E. D. F.

And afterwards, before the superior court for the district of East Florida, holden at the *court* courthouse in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-seven, to wit, on Monday, the ninth day of said term, and the twenty-eighth day of August, the following decree was entered of record in this cause, to wit:

Decree of Confirmation.

MOSES E. LEVY
vs.
THE UNITED STATES OF AMERICA. } Land Claim, 14,500 acres.

Whereas Moses E. Levy did, in pursuance of the act of Congress of the United States, entitled "An act supplementary to the several acts providing for the settlement and confirmation of private land claims in Florida," and approved 23d day of May, 1828, on the 18th day of May, 1829, file his petition for the confirmation of certain land therein mentioned, in the clerk's office of the superior court of the

eastern district of Florida; and whereas the attorney of the United States for said district did duly appear and file his answer to the said petition; and this cause having been heard, and evidence and argument of counsel as well on the part of the said claimant, as on that of the United States, having been offered and submitted to the court, and the court having examined the claim of the said petitioner, and the answer of the attorney of the United States, together with the exhibits and evidence filed in this cause, and having maturely considered the same, doth order, adjudge, and decree, that this claim is valid, and that, in accordance with the laws and customs of Spain, and under and by virtue of the late "treaty of amity, settlement, and limits between the United States of America and the King of Spain," ratified by the President of the United States on the 22d February, 1821, and under and by virtue of the laws of nations and of the United States, It is hereby ordered, adjudged, and decreed, that fourteen thousand five hundred acres of land be, and the same are hereby, con firmed, to the said claimant, being part of a tract of fifteen thousand acres, situated on the "west side of the river St. Johns, the measurement of which is to commence from the old Indian Chuchichatty path, opposite the site on which the firm of Panton and Leslie had their store establishment, known by the name of the Upper Store, being at the south side of the great lagoon, known as Lake George, and thence to run southerly until it completes the number of acres;" as in the memorial of Fernando de la Maza Arredondo to the Governor, and the decree of the Governor thereon, of the 24th of March, 1817; and as in the royal title for the said fifteen thousand acres, and the certificate and plat of survey of the said fourteen thousand five hundred acres, made by Don Andrew Burgevin, is set forth. And it is further ordered, adjudged, and decreed, that the prayer of the said claimant to have the said fourteen thousand five hundred acres of land surveyed to him, excluding land covered with water and marshes be, and the same is hereby, rejected.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-seven, to wit, on Monday, the eleventh day of said term, and the eleventh day of the month of September, the following appeal on the part of the United States was entered of record in this cause, to wit:

Appeal of United States.

THE UNITED STATES OF AMERICA *ads.* MOSES E. LEVY, } Land Claim, 14,500 Acres.

This day came as well the attorney of the United States for this district, as the solicitor for the said claimant, and the said attorney of the United States moved the court that an appeal be granted in this case on behalf of the said United States from the decree of this court to the Supreme Court of the United States; and that a citation, with

notice of said appeal may be forthwith issued by the clerk of this court to the appellee, and that the same may be served by the marshal of said district upon the said appellee or his solicitor or agent; and returned to this court within thirty days from the issuing thereof; all of which is ordered accordingly.

In pursuance of the foregoing order, a citation of appeal was duly issued in this case; which said citation, and the return of the marshal of the district thereon, are in the words and figures following, to wit:

Citation of Appeal.

In the name and by the authority of the United States of America:

To Moses E. Levy, or to his agent, attorney, or solicitor, greeting:

You are hereby cited and admonished, that an appeal has been taken on the part of the United States from the decree of the superior court for East Florida to the Supreme Court of the United States, in a certain claim to fourteen thousand five hundred acres of land, wherein you, the said Moses E. Levy, are claimant, and the said United States, respondent, and that the record in said cause will be forwarded to the said Supreme Court, to be placed on the docket of said court at the next term thereof, to be holden on the second Monday of January next.

[SEAL.] Witness the Honorable Robert Raymond Reid, Judge of our said court, at the courthouse in the city of St. Augustine, this twelfth day of September, A. D. 1837.

K. B. GIBBS, *Clerk.*

THOMAS DOUGLAS,
District Attorney.

J. DRYSDALE.
Solicitor for Claimant.

"Executed by delivering a copy of this process to John Drysdale, September 13th, 1837.

JOHN M. FONTANE,
Deputy Marshal."

And afterwards, before the superior court for the district of East Florida, holden at the courthouse in the city of St. Augustine, and the term of September, in the year of our Lord one thousand eight hundred and thirty-seven, to wit, on Tuesday, the seventh day of said term, and the nineteenth of said month, the following appeal was entered of record in this cause, to wit:

Appeal of Claimant.

MOSES E. LEVY
vs.
THE UNITED STATES OF AMERICA. } Land Claim, 14,500 acres.

This day came as well the counsel for the said claimant, as the attorney of the United States for this district; and the counsel for the said claimant moved the court, that an appeal be granted in this case on behalf of the said claimant, from so much of the decree of this court as directs, that the prayer of the said claimant to have the said fourteen thousand five hundred acres of land surveyed to him, excluding land covered with water and marshes, be rejected to the Supreme Court of the United States; which is ordered accordingly.

SUPERIOR COURT, *District of East Florida.*

I, Kingsley B. Gibbs, clerk of the said court for the district aforesaid, do hereby certify that the foregoing seventy-five pages and five lines, contain a full, true, and complete transcript of the record and proceedings had in the case therein named in my charge; and that the survey and certificate thereto attached and made a part of this record, is faithfully taken and copied from the said document as offered in evidence in said cause, on file in my office.

In testimony whereof, I have hereto set my hand, at the city of St. Augustine, this twenty-third day of January, A. D. 1838.

K. B. GIBBS, *Clerk.*

By the Honorable Robert Raymond Reid, Judge of the Superior Court for the District of East Florida, to all to whom these presents shall come, be seen, or made known, greeting:

Know ye, that Kingsley B. Gibbs, who hath signed the foregoing attestation, is clerk of the said court for the district aforesaid; that all due faith and credit are, and ought to be given to his acts as such, and that the foregoing attestation is in due form of law.

In testimony whereof, I have hereunto set my hand, and caused the seal of the said court to be hereunto affixed,
[L S.] this twenty-third day of January, A. D. 1838, and of the independence of the United States, the sixty-second year.

ROBERT RAYMOND REID.